

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

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U.S. DISTRICT COURT
MID. DIST. TENN.

MOTION DENIED

Kevin H. Sharp

UNITED STATES OF AMERICA

:

v.

:

N° 3:07-00124-5

:

ANTHONY LABRON DAVIS

:

Judge Sharp

:

MOTION TO STRIKE GOVERNMENTS MOTION FOR ADDITIONAL TIME TO RESPOND

NOW COMES, the defendant Anthony Labron Davis, as pro se, hereby requests this Court to grant this motion, whereas the defendant asks for the government's motion to be stricken. Pursuant Rules 50(b) and (d), 52(b), 59(b), (d) and (e), and 60(b). States that a Court must not extend the time to act under these Rules. The defendant shows the following;

1). The defendant filed his motion on August 18, 2011, pertaining to a new trial.

2). The government had pursuant to local Rules till September 1, 2011, to respond, but failed to do so.

3). The government contends that they did not respond because one of the A.U.S.A. was on vacation, which is an unexcusable neglect, being that there are more A.U.S.A.'s in the office and the Courts continue to see cases.

4). The government went beyond the due date by an additional eight (8) days, when the only course of action they took was to submit a motion requesting additional time. The A.U.S.A. returned from his vacation on the 28th of August 2011, where he still had time to file his motion for additional time before the due date, but he neglected to do so.

5). The defendant believes that the A.U.S.A.'s office is abusing the system by presenting such an unexcusable apology for their untimely response. The Justice system has Rules governing time limitations that apply not only to the defendant's but also apply to the government, as a result the Court of appeals have stipulated that equitable tolling must only be granted when the party has proven to have diligently pursued the issue, going on vacation and not foreseeing the need to have your cases monitored by another A.U.S.A, does not fall under diligently pursuing an issue or case. All the A.U.S. Attorneys are trained and professional, therefore are aware of the Court Rules and laws.